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No. 98-1361

In the Supreme Court of the United States

OCTOBER TERM, 1998

RALPH RICHARDSON, PETITIONER

v.

JANET RENO, ATTORNEY GENERAL, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

BRIEF FOR THE RESPONDENTS

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21 pp
f.s.

QUESTION PRESENTED

Whether the district court has jurisdiction under 28 U.S.C. 2241 to review petitioner's claim (a) that, as a legal permanent resident returning to the United States detained a port of entry because of his prior criminal conviction and placed in removal proceedings, he was entitled to a bond hearing before an immigration judge to determine whether he should be released from detention, (b) that his current mandatory detention, pursuant to 8 U.S.C. 1226(c)(1) (Supp. III 1997), violates the Due Process Clause or the Excessive Bail Clause, or (c) that, because he was taken into custody several years after he completed his criminal sentence, and not immediately after he was released, he is not covered by the mandatory-detention provision of Section 1226(c)(1).

TABLE OF CONTENTS

	Page
Opinions below	1
Jurisdiction	1
Statement	2
Discussion	14
Conclusion	17

TABLE OF AUTHORITIES

Cases:

Burke v. *Barnes*, 479 U.S. 361 (1987)	14
Carlson v. *Landon*, 342 U.S. 524 (1952)	12
Diffenderfer v. *Central Baptist Church*, 404 U.S. 412 (1972)	14
Fursari v. *Steinberg*, 419 U.S. 379 (1975)	14-15
Hall v. *Beals*, 396 U.S. 45 (1969)	14
Lewis v. *Continental Bank Corp.*, 494 U.S. 472 (1990)	15
Mathews v. *Eldridge*, 424 U.S. 319 (1976)	11
Parra v. *Perryman*, No. 99-1287, 1999 WL 173692 (7th Cir. Mar. 24, 1999)	15
Reno v. *American-Arab Anti-Discrimination Comm.*, 119 S. Ct. 936 (1999)	15, 16, 17
Rosenberg v *Fleuti*, 374 U.S. 449 (1963)	7, 8

Constitution, statutes and regulations:

U.S. Const.:	
Art. I, § 9, Cl. 2 (Suspension of Habeas Corpus Clause)	11
Art. III	11, 12
Amend. V (Due Process Clause)	11, 15
Amend. VIII (Excessive Bail Clause)	7
Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, § 401(e), 110 Stat. 1268	10

Statutes and regulations—Continued: Page

Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, Div. C, 110 Stat. 3009-546 2
§ 303(b)(2), 110 Stat. 3009-586 3
§ 303(b)(3), 110 Stat. 3009-586 3
§ 303(b)(3)(B)(i), 110 Stat. 3009-587 3-4
§ 304, 110 Stat. 3009-594 2
Immigration and Nationality Act, 8 U.S.C. 1101 *et seq.* 2
8 U.S.C. 1101(a)(13) (1958) 7
8 U.S.C. 1101(a)(13)(A) (Supp. III 1997) 4
8 U.S.C. 1101(a)(13)(C)(v) (Supp. III 1997) 4
8 U.S.C. 1101(a)(43)(B) 2
8 U.S.C. 1105a(a)(10) (1994) 10
8 U.S.C. 1182(a)(2) (1994 & Supp. III 1997) 2, 3, 4, 5
8 U.S.C. 1182(a)(2)(A)(i)(I) (1994 & Supp. III 1997) 2, 6, 8
8 U.S.C. 1182(a)(2)(A)(i)(II) (1994 & Supp. III 1997) 2, 6, 8
8 U.S.C. 1182(a)(2)(B) (1994 & Supp. III 1997) 6
8 U.S.C. 1182(a)(2)(C) (1994 & Supp. III 1997) 2, 6, 8
8 U.S.C. 1226(a)(1) (Supp. III 1997) 3
8 U.S.C. 1226(c) 11
8 U.S.C. 1226(c)(1) (Supp. III 1997) 3, 14, 15
8 U.S.C. 1226(c)(1)(A) (Supp. III 1997) 3
8 U.S.C. 1226(c)(2) (Supp. III 1997) 3
8 U.S.C. 1226(e) (Supp. III 1997) 8
8 U.S.C. 1229b(a)(3) (Supp. III 1997) 2
8 U.S.C. 1231(a)(1)(A) (Supp. III 1997) 3
8 U.S.C. 1231(a)(2) (Supp. III 1997) 3
8 U.S.C. 1231(a)(3) (Supp. III 1997) 3
8 U.S.C. 1252 ..... 9, 10, 12
8 U.S.C. 1252(a)(2)(C) (Supp. III 1997) 13
8 U.S.C. 1252(b)(9) (Supp. III 1997) 13, 15, 16
8 U.S.C. 1252(g) (Supp. III 1997) 8, 9, 10, 12, 13, 14, 15, 16
28 U.S.C. 2241 ..... 7, 9, 10, 11, 12

Regulations—Continued: Page

8 C.F.R.:

Section 1.1(q) 5
Section 236.1(c)(5)(i) 5
Section 236.1(d)(1) 4, 5
Section 236.1(d)(2)(i) 5
Section 236.1(d)(3)(i) 5

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BRIEF FOR THE RESPONDENTS

OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1-101) is reported at 162 F.3d 1338. The opinion of the district court (Pet. App. 105-118) is reported at 994 F. Supp. 1466. The report and recommendation of the magistrate judge (Pet. App. 119-132) are unreported. The order of the immigration judge denying bond (Pet. App. 154-155) and the decision of the district director denying parole (App., *infra*, 1a-2a) are unreported.

JURISDICTION

The amended judgment of the court of appeals was entered on December 22, 1998. The petition for a writ of certiorari was filed on February 23, 1999. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

1. This case involves a challenge to the application and, in this Court, the constitutionality of new provisions of the immigration laws concerning the detention of criminal aliens who are required to be removed from the United States because of their criminal convictions. The provisions at issue here, which concern the detention of such criminal aliens pending the completion of their administrative removal proceedings, were added by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. No. 104-208, Div. C, 110 Stat. 3009-546, enacted on September 30, 1996, which comprehensively revised the Immigration and Nationality Act (INA), 8 U.S.C. 1101 *et seq.*

First, IIRIRA requires that certain criminal aliens be removed from the United States, and bars the Attorney General from granting those aliens discretionary relief from such removal (known as "cancellation of removal" under the new terminology of IIRIRA). IIRIRA § 304, 110 Stat. 3009-594. Thus, 8 U.S.C. 1182(a)(2) (1994 & Supp. III 1997) provides that an alien who has been convicted of any offense involving moral turpitude or any controlled substance offense, or who has engaged in trafficking of controlled substances, is inadmissible to the United States and shall be removed. See 8 U.S.C. 1182(a)(2)(A)(i)(I) and (II), and (C) (1994 & Supp. III 1997). In addition, 8 U.S.C. 1229b(a)(3) (Supp. III 1997) provides that the Attorney General may not cancel the removal of any alien who has been convicted of an "aggravated felony," which is defined elsewhere in the INA to include any crime involving trafficking in controlled substances, see 8 U.S.C. 1101(a)(43)(B).

Second, IIRIRA provides that the Attorney General "shall take into custody" any alien who is inadmissible

by reason of having committed any offense covered in Section 1182(a)(2) (including those mentioned above). 8 U.S.C. 1226(c)(1)(A) (Supp. III 1997).[1] Such an alien may be released from custody, before entry of a final order of removal, only if the Attorney General determines that such release is necessary to protect a witness, a person cooperating with a criminal investigation, or a relative or associate of such person, and if the alien satisfies the Attorney General that he will not pose a danger to the safety of persons or property and that he is likely to appear for any scheduled proceeding. 8 U.S.C. 1226(c)(2) (Supp. III 1997).[2]

Third, when Congress enacted these mandatory-detention provisions in IIRIRA, it also authorized the Attorney General to postpone their final implementation for two years. See IIRIRA § 303(b)(2), 110 Stat. 3009-586. To address the possibility that the Attorney General might elect to do so, Congress enacted certain "Transition Period Custody Rules" (TPCR) to apply in that event, instead of the mandatory-detention provisions. IIRIRA § 303(b)(3), 110 Stat. 3009-586 to 3009-

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[1] Although Section 1226(c)(1) makes the detention of such a criminal alien mandatory, another provision, Section 1226(a)(1), grants the Attorney General discretionary authority to detain other aliens pending the outcome of removal proceedings.

[2] Somewhat different considerations govern the detention of aliens after a final order of removal is entered. The Attorney General is required to remove the alien within 90 days after the order becomes final, and may not release a criminal alien from detention during that 90-day period. 8 U.S.C. 1231(a)(1)(A) and (2) (Supp. III 1997). If the Attorney General is unable to remove the alien within 90 days, however (as where the country to which the alien has been ordered deported will not accept him), the Attorney General may under limited circumstances release the alien from detention. 8 U.S.C. 1231(a)(3) (Supp. III 1997).

587. The TPCR directed the Attorney General to take into custody any criminal alien covered by Section 1182(a)(2), but also authorized the Attorney General to release such an alien if he was "lawfully admitted to the United States" and satisfied the Attorney General that he would not pose a danger to persons or property and would appear for proceedings. IIRIRA § 303(b)(3)(B)(i), 110 Stat. 3009-587.

IIRIRA defined "admission" and "admitted" to refer to "the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." 8 U.S.C. 1101(a)(13)(A) (Supp. III 1997). IIRIRA further provided that an alien lawfully admitted for permanent residence "shall not be regarded as seeking an admission into the United States for purposes of the immigration laws" *except* under certain circumstances, including if the alien "has committed an offense identified in section 1182(a)(2)." 8 U.S.C. 1101(a)(13)(C)(v) (Supp. III 1997). The result is that a legal permanent resident alien who has committed a criminal offense covered by Section 1182(a)(2), and who leaves the country and thereafter seeks to return, may be considered an alien "seeking an admission into the United States."

The Attorney General exercised her authority to delay the final implementation of the permanent detention rules of IIRIRA for two years. She also promulgated regulations governing the detention of criminal aliens under the TPCR. Those regulations provided that, in the case of an alien who had been lawfully admitted to the United States and was thereafter placed in detention pending his removal proceeding, the alien, after an initial custody determination made by an INS District Director, could apply to an immigration judge for release upon bond. 8 C.F.R. 236.1(d)(1). The

regulations also provided, however, that an immigration judge would have no such authority in the case of "arriving aliens," 8 C.F.R. 236.1(c)(5)(i), defined elsewhere in the regulations to mean "an alien who seeks admission to * * * the United States * * * at a port-of-entry," 8 C.F.R. 1.1(q). "Arriving aliens," under the TPCR, could apply only to a district director, not an immigration judge, for release on bond, and could appeal from an adverse decision of the district director to the Board of Immigration Appeals (BIA). 8 C.F.R. 236.1(d)(1), (2)(i) and (3)(i). Accordingly, under the Attorney General's regulations implementing the TPCR, a legal permanent resident alien who had been convicted of a criminal offense covered by Section 1182(a)(2), and who left the country and thereafter sought to return, was considered an "arriving alien," and could apply only to the district director (with subsequent appeal to the BIA), not an immigration judge, for release from detention.

2. Petitioner is a 32-year-old native and citizen of Haiti. He was admitted to the United States in 1968 as a lawful permanent resident. In 1984, he was convicted of carrying a concealed firearm. In 1990, he was convicted of trafficking in cocaine. He was sentenced to five years in prison for the trafficking offense and served four years. In 1993, he was arrested for violation of probation when he eluded the police. Pet. App. 4, 106.

On October 26, 1997, petitioner returned to the United States after a two-day trip to Haiti. During petitioner's inspection for admission, he admitted to having been convicted for trafficking in cocaine, arrested for violation of probation when he eluded the police, arrested for loitering and prowling, arrested for possession of marijuana, and convicted for possession of

a concealed firearm. Petitioner was detained and placed in removal proceedings. Pet. App. 5-6.

On the same day, the Immigration and Naturalization Service (INS) commenced removal proceedings against petitioner, charging him with inadmissibility pursuant to 8 U.S.C. 1182(a)(2)(A)(i)(I) and (II), (B), and (C) (1994 & Supp. III 1997) (referring respectively to a conviction for a crime involving moral turpitude, a conviction for a controlled substance offense, multiple criminal convictions, and engaging in drug trafficking). App., *infra*, 3a-4a. On November 13, 1997, petitioner requested parole from the INS District Director. While that request was pending, petitioner also requested parole from an immigration judge. Pet. App. 6, 107. On November 24, 1997, the immigration judge denied petitioner's request for parole or release on bond, on the ground that petitioner was an "arriving alien," and therefore under the Attorney General's TPCR regulations an immigration judge lacked jurisdiction to hear his request for parole. *Id.* at 7, 154-155. On December 4, 1997, the INS District Director denied petitioner's request for parole. The District Director concluded that, based on petitioner's convictions, his release was not in the public interest, and that there were no humanitarian reasons for granting parole. App., *infra*, 1a-2a. Petitioner did not appeal to the BIA from the decision of either the immigration judge or the District Director.

3. On November 26, 1997, petitioner filed a petition for writ of habeas corpus in the United States District Court for the Southern District of Florida; he subsequently filed an amended petition. Pet. App. 7, 133. In his amended petition, filed on December 10, 1997, petitioner alleged that the Attorney General's TPCR regulations that denied him the opportunity for a hearing before an immigration judge violated equal-protection

principles by creating a class of lawful permanent residents who are not afforded a hearing before an immigration judge because of their brief departure from the United States, while affording such a hearing to lawful permanent residents who have not departed the United States. *Id.* at 141. He also alleged that the denial of a bond hearing before an immigration judge and his detention without bail violated procedural due process, substantive due process, and the Excessive Bail Clause of the Eighth Amendment. *Id.* at 144-147. Finally, petitioner argued that, to the extent the Attorney General's TPCR regulations provided that he should be treated as an "arriving alien" seeking admission to the United States (and therefore not entitled to a bond hearing before an immigration judge) rather than a returning lawful permanent resident alien, those regulations were contrary to the doctrine of *Rosenberg* v. *Fleuti*, 374 U.S. 449 (1963). Pet. App. 150. Under that decision, which construed the term "entry" in the INA as it existed prior to IIRIRA, a lawful permanent resident alien who made a brief, causal, and innocent trip abroad and then sought to return to the United States was not deemed to be seeking an "entry" into this country upon his return. See 374 U.S at 451-461 (discussing 8 U.S.C. 1101(a)(13) (1958)).

On February 13, 1998, the district court granted the writ of habeas corpus and ordered a bond hearing to be held by an immigration judge within eleven days. Pet. App. 105-118. The district court found that it had jurisdiction to entertain the claims in petitioner's habeas corpus petition. *Id.* at 110. (Although the district court did not cite an explicit provision for its jurisdiction, it presumably relied on 28 U.S.C. 2241, the general federal habeas corpus statute.) The district court rejected (Pet. App. 109-110) the INS's argument that such ju-

risdiction was precluded by 8 U.S.C. 1226(e) and 1252(g) (Supp. III 1997). On the merits, the district court held that the INS regulation treating criminal aliens such as petitioner as "arriving aliens" was contrary to the statute. The court concluded that, when Congress enacted IIRIRA, it did not supersede the *Fleuti* doctrine under which legal permanent resident aliens returning to the United States from a brief, casual, and innocent trip abroad are not treated as aliens seeking entry into the United States. Pet. App. 115-117.

4. On February 23, 1998, the court of appeals granted the INS's request for a stay of the district court's order pending appeal, and ordered expedited briefing. Pet. App. 104. On April 2, 1998, Justice Kennedy denied petitioner's application to vacate the court of appeals' stay. *Id.* at 103. On October 10, 1998, while this case was pending in the court of appeals, the TPCR expired, and, as petitioner notes (Pet. 9), after that time, petitioner's custody was based on the permanent custody provisions of IIRIRA. Petitioner requested leave to file a supplemental brief in the court of appeals on questions concerning mandatory detention under those provisions, but the court of appeals denied that request. See Pet. 9-10.

5. Meanwhile, on January 8, 1998, an immigration judge found petitioner inadmissible pursuant to Sections 1182(a)(2)(A)(i)(I) (conviction for crime involving moral turpitude), 1182(a)(2)(A)(i)(II) (conviction for controlled substance offense), and 1182(a)(2)(C) (engaging in drug trafficking), and ordered him deported to Haiti. App., *infra*, 5a-6a. Petitioner appealed the immigration judge's order of removal to the Board of Immigration Appeals. Petitioner's brief to the BIA was originally due on June 29, 1998. After clarification of

the briefing schedule, petitioner requested and received an extension for the filing of his brief. He ultimately filed his brief with the BIA on October 15, 1998. The INS filed its responding brief on November 26, 1998. *Id.* at 9a-11a. The appeal to the BIA is still pending.

6. On December 22, 1998, the court of appeals, in a lengthy opinion, vacated the district court's order for lack of jurisdiction. Pet. App. 1-101. The court concluded that 8 U.S.C. 1252(g) (Supp. III 1997) had divested the district court of authority to hear petitioner's challenges. Pet. App. 1-101.

a. After reviewing IIRIRA's far-reaching changes to the immigration laws (Pet. App. 11-39), the court framed the "first question" before it as whether Section 1252(g) "has eliminated federal jurisdiction under [28 U.S.C.] 2241 over [petitioner's] habeas petition." Pet. App. 40. The court answered that question in the affirmative because, it stated, Section 1252(g) "clearly and unequivocally precludes any jurisdiction in the district court except that provided in [Section 1252]." Pet. App. 43. Observing (*ibid.*) that Section 1252(g) provides that, "notwithstanding *any* other provision of law, * * * no court shall have jurisdiction" to review certain matters except as provided in Section 1252 itself, the court found that this locution "sufficiently and clearly encompasses other provisions of law, such as [28 U.S.C.] 2241." "When Congress says 'any,' it means 'any' law, which necessarily includes § 2241." Pet. App. 43-44. The court found that conclusion buttressed by the fact that Congress had also repealed an express provision in the INA that had recognized some

authority in the district courts to grant the writ of habeas corpus. See *id.* at 45-46.[3]

The court rejected two arguments put forward by petitioner to avoid the effect of Section 1252(g). First, it rejected petitioner's reliance on the rule against repeals of habeas corpus jurisdiction by implication, and in particular his argument that Section 1252(g) did not oust the district court's habeas corpus jurisdiction under 28 U.S.C. 2241 because Section 1252(g) does not mention Section 2241 expressly. Pet. App. 46-47. The court suggested that, by using sweeping language, including "notwithstanding any other provision of law," Section 1252(g) "does not require repeal by implication. Indeed, Congress could hardly have chosen broader language to convey its intent to repeal any and all jurisdiction except that provided by [Section 1252]." Pet. App. 47-48.

Second, the court rejected petitioner's argument that Section 1252(g) "affects only final removal orders" and does not address "interim detention orders" such as denying bond and parole. Pet. App. 46 n.100. The court concluded that the INS's "interim orders and actions are not collateral proceedings but are inextricably part of the removal proceedings and covered by the broad language of [Section 1252(g)]." *Id.* at 46-47 n.100.

b. The court of appeals also rejected petitioner's argument that the elimination of the district court's jurisdiction over his habeas corpus petition under

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[3] In Section 401(e) of the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1268, entitled "ELIMINATION OF CUSTODY REVIEW BY HABEAS CORPUS," Congress repealed former 8 U.S.C. 1105a(a)(10) (1994). Former Section 1105a(a)(10) had provided that "any alien in custody pursuant to an order of deportation may obtain judicial review thereof by habeas corpus proceedings."

28 U.S.C. 2241 would contravene the Due Process Clause, Article III, and the Suspension of Habeas Corpus Clause. Pet. App. 48-71. As for the Due Process Clause, the court concluded that the Clause does not necessarily require judicial review of all immigration decisions, and that instead, the question is whether the alien has adequate procedural safeguards attendant to the relevant administrative decision. *Id.* at 57-59. The court also rejected (*id.* at 59) petitioner's argument that limiting his opportunity to request bond to a written submission to the INS District Director rather than a hearing before an immigration judge deprived him of due process. Applying the test of *Mathews* v. *Eldridge*, 424 U.S. 319, 334-335 (1976), the court found the opportunity for written submission to the District Director sufficient because, while petitioner's liberty interest was, in its view, "weighty"—"although slightly attenuated given his resident alien status"—the risk of error is low, since petitioner's counsel was able to make a full submission to the District Director supported by written evidence, and the INS's interest in avoiding bond hearings before immigration judges is "fairly high" given the volume of arriving aliens at numerous ports of entry. Pet. App. 60.

With respect to the mandatory-detention provision in Section 1226(c) that had just come into effect, the court observed (Pet. App. 60 n.119) that "Congress acts well within its plenary power in mandating detention of a criminal alien with an aggravated felony conviction facing removal proceedings." That mandatory detention "poses no constitutional issue," the court of appeals continued, because this Court "already has stated that [t]he Eighth Amendment has not prevented Congress from defining the classes of [immigration] cases in which bail shall be allowed. The Supreme Court has

determined that bail need not be provided in all immigration cases." *Ibid.* (quoting *Carlson* v. *Landon*, 342 U.S. 524, 545 (1952) (ellipsis and internal quotation marks omitted)).

The court of appeals further held that what it called "IIRIRA's repeal of § 2241 habeas over INS decisions" (Pet. App. 61) did not violate Article III. The court observed that Article III does not require judicial review in any inferior federal court, and that "[t]he jurisdiction of the inferior federal courts are [*sic*] created by statute and jurisdiction does not exist except to the extent conferred by statute." Pet. App. 62. "Similar to many congressionally-enacted limits on federal jurisdiction, Article III does not preclude Congress from removing all judicial review over immigration decisions from the inferior courts." *Ibid.*

Finally, the court rejected the contention that Section 1252(g), by precluding the district court from entertaining petitioner's habeas corpus petition under 28 U.S.C. 2241, effected an unconstitutional suspension of the writ of habeas corpus. The court first reviewed (Pet. App. 64-88) the history of habeas corpus in the immigration context and other appellate decisions examining Section 1252(g). The court then concluded that, in Section 1252(b)(9)—which independently provides that "[j]udicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien from the United States * * * shall be available only in judicial review of a final order [of removal] under [Section 1252]"—Congress had chosen "to delay federal court review of all claims of aliens against whom removal proceedings have been instituted until the conclusion of the administrative proceedings." *Id.* at 86.

The court found the availability of judicial review at that point sufficient to allay constitutional concerns about a suspension of the writ of habeas corpus, because "[d]eferring [petitioner's] claims until the entry of a final order of deportation does not raise substantial constitutional concerns. Congress has broad latitude to regulate the mode and timing of judicial review of administrative agency decisions, even where constitutional claims are involved." *Id.* at 87-88. Thus, the court likened the operation of Section 1252(b)(9) in this case to an exhaustion requirement, which "avoids piecemeal review by consolidating all challenges to the deportation process into a single judicial proceeding." *Id.* at 88.

The court acknowledged that another provision of the INA added by IIRIRA, 8 U.S.C. 1252(a)(2)(C) (Supp. III 1997), significantly restricts the jurisdiction of the court of appeals to hear any claim by a criminal alien such as petitioner on a petition for review of a final order of removal. Pet. App. 90-91. The court stressed, however, that some judicial review remained available to an alien in petitioner's position on such a petition for review, including a constitutional attack on a provision of the INA itself. *Id.* at 91-92. Thus, the court concluded that the INA "still assures [petitioner] a significant degree of judicial review in the court of appeals after a final removal order," *id.* at 93-94, and it found that review sufficient to allay constitutional concerns about a suspension of habeas corpus, *id.* at 94-96.

DISCUSSION

Petitioner argues that the court of appeals erred in concluding that, because of 8 U.S.C. 1252(g) (Supp. III 1997), the district court lacked jurisdiction over his habeas corpus petition challenging the application, to this case, of the Attorney General's TPCR regulations classifying him as an "arriving alien" who was not entitled to a hearing before an immigration judge on the question whether he should be released on bond pending the outcome of his removal proceeding. That challenge, however, is now moot, because the TPCR rules have expired. See *Burke* v. *Barnes*, 479 U.S. 361, 363-364 (1987); *Hall* v. *Beals*, 396 U.S. 45, 48 (1969) (per curiam); see also *Fursari* v. *Steinberg*, 419 U.S. 379, 386-390 (1975); *Diffenderfer* v. *Central Baptist Church*, 404 U.S. 412, 414 (1972).

Petitioner argues, however, that this Court should grant review to determine whether the permanent mandatory-detention provisions of IIRIRA, 8 U.S.C. 1226(c)(1) (Supp. III 1997), apply to his case, and if so, whether they are constitutional. The lower courts, however, did not examine those questions in detail (although the court of appeals did indicate, in a footnote, that it saw no constitutional difficulty with the mandatory-detention provisions, see Pet. App. 60 n.119), and the parties did not brief any questions relating to the permanent mandatory-detention rules. (Petitoner sought leave to file a supplemental brief on the permanent rules, which was denied by the court of appeals. See Pet. App. 102.) Given the lack of briefing in the court of appeals on such a potentially far-reaching issue, it would not be appropriate for this Court to grant plenary review to examine those issues in detail in the first instance. See *Fursari*, 419 U.S. at

389; *Lewis* v. *Continental Bank Corp.*, 494 U.S. 472, 482 (1990). Nor is there a conflict in the circuits on the application or constitutionality of the mandatory-detention provisions that would otherwise warrant this Court's review; the only court of appeals that has addressed their constitutionality in detail has concluded that Section 1226(c)(1) is fully consistent with the Due Process Clause. *Parra* v. *Perryman*, No. 99-1287, 1999 WL 173692, at *3-*4 (7th Cir. Mar. 24, 1999).

We do observe, however, that the court of appeals' analysis of Section 1252(g) has been superseded by this Court's construction of the same provision in *Reno* v. *American-Arab Anti-Discrimination Committee*, 119 S. Ct. 936 (1999) (*AADC*). In *AADC*, the Court rejected the contention that Section 1252(g) covers "all claims arising from deportation proceedings" (*id.* at 943) and concluded instead that the provision is more narrowly limited to specific "decisions or actions that may be part of the deportation process" (*ibid.*); see *id.* at 945 n.9 (referring to Section 1252(g)'s "explicit limitation to specific steps in the deportation process").[4]

The court of appeals also discussed 8 U.S.C. 1252(b)(9) (Supp. III 1997) in the course of its jurisdictional ruling.[5] See Pet. App. 86-89. It is unclear

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[4] Section 1252(g) provides: "Except as provided in this section and notwithstanding any other provision of law, no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter."

[5] Section 1252(b)(9) provides: "Judicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien from the United States

whether the court of appeals intended to rule that Section 1252(b)(9) constitutes an independent preclusion of district court review on habeas corpus proceedings on petitioner's claim that he is entitled to a bond hearing before an immigration judge, or whether the court intended its discussion of Section 1252(b)(9)'s "final order" requirement and the exhaustion principle it embodies essentially to reinforce its principal holding that Section 1252(g) forecloses review. It is also unclear to what extent the court's discussion of Section 1252(b)(9) was influenced by its analysis of Section 1252(g). Accordingly, we suggest that the Court grant the certiorari petition, vacate the judgment below, and remand for further proceedings in light of *Reno* v. *American-Arab Anti-Discrimination Committee*, 119 S. Ct. 936 (1999), which discussed (*id.* at 942-943) Section 1252(b)(9) as well as Section 1252(g).

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under this subchapter shall be available only in judicial review of a final order under this section."

CONCLUSION

The petition for a writ of certiorari should be granted, the judgment of the court of appeals vacated, and the case remanded for further proceedings in light of *Reno* v. *American-Arab Anti-Discrimination Committee*, 119 S. Ct. 936 (1999).

Respectfully submitted.

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Acting Assistant Attorney General
DONALD E. KEENER
ALISON R. DRUCKER
ERNESTO H. MOLINA, JR.
Attorneys

APRIL 1999

APPENDIX

[Seal Omitted]

United States Department of Justice
Immigration and Naturalization Service

Krome Service Processing Center
18201 SW 12 Street
Miami, Florida 33194

December 04, 1997

Kurzban Kurzban Weinger and Tetzeli, P.A.
Plaza 2650
2650 SW 27 th Avenue
Second Floor
Miami, Florida 33133

RE: Ralph RICHARDSON
A 17 566 876

Dear Mr. Kurzban, ESQ

This responds to your letter of November 13, 1997, requesting parole for the above named person, who is detained in Service custody. Please be advised that, after careful review and consideration, parole will not be extended to this individual at this time.

The detention of persons not clearly admissible to the United States is mandated by Section 235(b) of the Immigration and Nationality Act. The factors to be weighed by the District Director in evaluating requests for release from detention are set forth at Title 8, Code of Federal Regulations, part 212.5(a). After taking these factors into consideration in reviewing the parole request for the above applicant, I have concluded that a favorable exercise of discretion is not warranted. Accordingly, the request for parole is hereby denied.

Sincerely,

\s\ signature illegble
FOR THE DISTRICT DIRECTOR
Caryl Thompson
Acting Officer in Charge
Krome SPC

[Seal Omitted]

MEMORANDUM

United States Department of Justice
Immigration and Naturalization Service
18201 S.W. 12 th. Miami, Fla. 33194

December 4th, 1997

Kurzban Kurzban Weinger and Tetzeli, P.A.
Plaza 2650
2650 SW 27th Avenue, Second Floor
Miami, Florida 33133

RE: RALPH RICHARDSON, A17 566 876
SUPPLEMENT TO PAROLE REQUEST DENIAL LETTER

Dear Mr. Kurzban,
This letter is a supplement to the parole denial letter, which was mailed to your office on December 4th, 1997. The parole of aliens into the United States is justified only on a case by case basis for urgent humanitarian reasons or significant public benefit.

On October 26th, 1997, Mr. Richardson applied for admission as a returning permanent resident with an expired I-151 (Alien Resident Card) and a valid Haitian passport. This caused him to be referred to the Secondary Immigration Inspector for a more detailed interview on his application for admission. During this secondary interview, Mr. Richardson freely admitted to having been convicted of conspiring to traffick cocaine for which he was sentenced to five years imprisonment, of which he served three years. Subsequent to his admission of being convicted of a serious drug offense, Mr. Richardson provided other information pertaining to his criminal history. In 1984 he was arrested and charged with possession of a firearm. He was again, in 1985, arrested and charged with possession of a controlled substance (marijuana). In 1992 and 1993 he was arrested and convicted of possession of a controlled substance (crack cocaine). Pursuant to Section 101 (a) (43) of the Immigration and Nationality Act, Mr. Richardson has been convicted of an aggravated felony.

The release of Mr. Richardson into the community will be of no significant public benefit. Mr. Richardson has not shown that his release would be warranted based upon urgent humanitarian reasons. Additionally, he is not eligible for any form of relief under the Immigration and Nationality Act. Consequently, he would have no incentive to appear for Immigration hearings.

Based on the above facts and circumstances of your client's case, a favorable exercise of discretion is not warranted at this time. Accordingly, the request for parole submitted on behalf of Mr. Richardson is denied.

Respectfully,

\s\ CHARLENE MONROE
FOR THE DISTRICT DIRECTOR
Charlene Monroe
Acting Officer in Charge
Krome Service Processing Center

U.S. Department of Justice
Immigration and Naturalization Service **Notice to Appear**

In removal proceedings under section 240 of the Immigration and Nationality Act

File No: *A 17 566 876*

In the Matter of:

Respondent: *RICHARDSON, RALPH* currently residing at:

1127 HARBINS ROAD, NORCROSS, GA 30093 (Number, street, city, state, and ZIP code)

(770) 381-8244 (Area code and phone number)

☒ 1. You are an arriving alien.

☐ 2. You are an alien present in the United States who has not been admitted or paroled.

☐ 3. You have been admitted to the United States, but are deportable for the reasons stated below.

The Service alleges that you:

A 1. Are not a citizen or national of the United States.

A 2. You are a native of HAITI and a citizen of HAITI.

SEE CONTINUATION FORM I-831 ATTACHED

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provisions(s) of law:

SEE CONTINUATION FORM I-831 ATTACHED

☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution.

☐ Section 235(b)(1) order was vacated pursuant to : ☐ 8 CFR 208.0(f)(2) ☐ 8 CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:
KROME NORTH SPC, 18201 SW 12TH ST., MIAMI, FL 33191
(Complete Address of Immigration Court, Including Room Number, if any)

on TO BE SET (Date) at _____ (Time) to show why you should not be removed from the United States based on the charge(s) set forth above.

\s\ FELICIA SKINNER Felicia Skinner, SOI
(Signature and Title of Issuing Officer)

MIAMI, FL
(City and State)

Date: OCTOBER 26, 1997

See reverse for important information

Form I-862 (Rev. 4/1/97)

U.S. Department of Justice
Immigration and Naturalization Service

Continuation Page for Form I-862

Alien's Name	File Number	Date
RICHARDSON, RALPH	A 17 566 876	OCTOBER 26, 1997

ALLEGATIONS CONTINUED:

3. You applied for admission to the United States on 10/26/97 at MIA-IAP as a returning permanent resident.

4. At the time of your application for admission the consular or immigration officer had reason to believe that you were or had been an illicit trafficker of a controlled substance, or were or had been a knowing assister, abettor conspirator, or colluder with other in the illicit trafficking of a controlled substance, to wit: you were convicted on 7/3/91 of conspiracy to traffick cocaine and sentenced to 5 yrs. with 3 yrs. served.

5. You admitted committing the following acts: possession of marijuana, loitering and prowling, eluding police, and probation violation for which you were returned to jail to serve the remainder of your 5 year sentence.

6. Those acts constitute the essential elements of crimes involving moral turpitude.

PROVISIONS CONTINUED:

Section 212(a)(2)(C) of the Immigration and Nationality Act, as amended, as an alien who the consular or immigration officer knows or has reason to believe is or has been an illicit trafficker in a controlled substance, or knows or has reasons to believe is or has been a knowing assister, abettor, conspirator, or colluder in the illicit trafficking of a controlled substance.

Section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act, as amended, as an alien who has been convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of a crime involving moral turpitude (other than a purely political offense).

Section 212 (2)(A)(i)(II) of the Immigration and Nationality Act, as amended, as an alien who has been convicted of, or admits having committed, or admits committing acts which constitute the essential elements of, a violation or a conspiracy or attempt to violate any law or regulation of a state, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the controlled Substances Act, 21 U.S.C. 802.

Section 212(a)(2)(B) of the Immigration and Nationality Act, as amended, as an alien who has been convicted of two or more criminal offenses for which the aggregate sentences to confinement actually imposed were five years or more.

Signature	Title
\s\ FELICIA SKINNER	IMMIGRATION INSPECTOR

IMMIGRATION COURT
18201 S.W. 12TH ST
MIAMI, FL 33194

In the Matter of

RICHARDSON, RALPH
Respondent

Case A17-566-876

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on [1/8/1998]
This memorandum is solely for the convenience of the parties. If the proceedings should be appealed or reopened, the oral decision will become the official opinion in the case.

[X] The respondent was ordered removed from the United States to [Haiti]
[ ] Respondent's application for voluntary departure was denied and respondent was ordered removed to
alternative to
[ ] Respondent's application for voluntary departure was granted until
upon posting a bond in the amount of $
with an alternate order of removal to
[ ] Respondent's application for asylum was ( ) granted ( ) denied ( ) withdrawn.
[X] Respondent's application for cancellation of removal under section 240A(a) was ( ) granted (X) denied ( ) withdrawn. [Statutorily ineligible]
[ ] Respondent's application for cancellation of removal was ( ) granted under section 240A(b)(1) ( ) granted under section 240A(b)(2) ( ) denied ( ) withdrawn. If granted, it was ordered that the respondent be issued all appropriate documents necessary to give effect to this order.
[ ] Respondent's application for a waiver under section ____ of the INA was ( ) granted ( ) denied ( ) withdrawn or ( ) other.
[ ] Respondent's application for adjustment of status under section _____ of the INA was ( ) granted ( ) denied ( ) withdrawn. If granted, it was ordered that respondent be issued all appropriate documents necessary to give effect to this order.
[ ] Respondent's status was rescinded under section 246.
[ ] Respondent is admitted to the United States as a ____ until _____.
[ ] As a condition of admission, respondent is to post a $_____ bond.
[ ] Respondent knowingly filed a frivolous asylum application after proper notice.
[ ] Respondent was advised of the limitation on discretionary relief for failure to appear as ordered in the Immigration Judge's oral decision.
[ ] Proceedings were terminated.
[X] Other: [212(a)(2)(C), 212(a)(A)(i)(II), 212(a)(2)(A)(i)(I)]
Date:
Appeal: ~~WAIVED~~ Appeal Due By: [2/9/98]

[By Respondent] \s\ KENNETH S. HUREWITZ
KENNETH S. HUREWITZ
Immigration Judge

POA

ALIEN NUMBER: 17-566-876 ALIEN NAME: RICHARDSON, RALPH

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL (M) PERSONAL SERVICE (P)

TO: [X] ALIEN [ ] ALIEN c/o Custodial Officer [ ] ALIEN's ATT/REP [X] INS

DATE: [1/8/98] BY: COURT STAFF \s\ signature illegible

Attachments: [ ] EOIR-33 [ ] EOIR-28 [ ] Legal Services List [ ] Other

Q6

U.S. DEPARTMENT OF JUSTICE
Executive Office for Immigration Review
Board of Immigration Appeals

OMB #1105-0065
Notice of Appeal to the Board of Immigration Appeals of Decision of Immigration Judge

1. List Name(s) and "A" Number(s) of all Applicant(s)/Respondent(s):

Ralph Richardson A#17 566 876

! WARNING TO ALL APPLICANT(S)/RESPONDENT(S): Names and "A" Numbers of everyone appealing the order must be written in item _

For Office Use Only

2. Applicant/Respondent is currently ☒ DETAINED ☐ NOT DETAINED

3. Appeal from the Immigration Judge's decision dated 1/8/98.

4. State in detail the reasons for the appeal. You are not limited to the space provided below, use more sheets of paper if necessary. Write your name(s) and "A" number(s) on each sheet.

! WARNING: The failure to specify the factual of legal basis for the appeal may lead summary dismissal without further notice, unless you give specific details at timely, separate written brief or statement filed with the Board.

1. The Service failed to meet its burden of proof and failed to establish Mr. Richardson's inadmissibility/removability as it failed to establish that he has an aggravated felony conviction or that there is a reason to believe that he was or is an illicit drug trafficker as inter alia, the documentation submitted by the service as evidence was not properly certified or authenticated and did not clearly relate to the respondent.

2. The Immigration Judge erred by refusing to continue the case until the respondent's habeas case pending in federal court for the Southern District of Florida was resolved. The respondent had previously notified the Immigration Judge and the INS of the issuance of a favorable Report and Recommendation by the Magistrate presiding over his case that the district court order the defendants to provide respondent with a bond hearing. The Immigration Judge conceded that a finding of deportability at this point would later make it less likely that the respondent would be granted a bond, even if it was later determined through the federal court litigation that the Immigration and Naturalization Service had erroneously denied him the right to a bond hearing based on the allegation that he was an "arriving alien."

3. The Immigration Judge erred by denying the Petitioner section 212(c) relief based on legislative changes that occurred subsequent to the respondent's alleged conviction, thereby impermissibly and unconstitutionally retroactively applying a new law to the petitioner.

4. The Immigration Judge erred by denying respondent the right to seek cancellation of removal. Respondent has not been charged as removable, deportable, or excludable as an aggravated felon and therefore is eligible for cancellation of removal.

(Attached more sheets if ne_____

[Bar code excluded]

10/26/97
Case Appeal
EOIR-26
RICHARDSON, RALPH 17-566-876

5. I ☒ do / ☐ do not desire oral argument before the Board of Immigration Appeals.

6. I ☒ will / ☐ will not file a separate written brief or statement in addition to the "Reason(s) for Appeal" written above or accompanying this form.

! WARNING: Your appeal may be summarily dismissed if you indicate in Item #6 that you will file a separate written brief or statement and within the time set for filing. You fail to file brief or statement and do not reasonably explain such failure.

SIGN HERE

7. X \s\ signature illegible [1/22/98]

Signature of Person Appealing (or attorney or representative) — Date

8. Mailing Address of Applicant(s)/Respondent(s)

Ralph Richardson A#17 566 876
(Name)
c/o Kurzban Kurzban WEinger &
TEtzeli, PA (Street Address)
2650 SW 27 Avenue
(Apartment or Room Number)
Miami FL 33133
(City, State, Zip Code)

9. Mailing Address of Attorney or Representative

Helena Tetzeli, Esq.
Kurzban Kurzban Weinger & Tetzeli, P.A.
(Name)
2650 SW 27 Avenue
(Street Address)
2nd Floor
(Suite or Room Number)
Miami Fl 33133
(City, State, Zip Code)

! WARNING: An attorney or representative will not be recognized as counsel on appeal and will not receive documents or correspondence in connection with the appeal unless he/she submits a completed Form EOIR-27.

CERTIFICATE OF SERVICE

(Must Be Completed)

10. I Helena Tetzeli, Esq. (Name) mailed or delivered a copy of this notice of appeal on 1/21/98 (Date) to U.S. Trial Attorney (Opposing Party) at 155 S Miami AVenue 5th Floor Miami, Fl 33131 (Address of Opposing Party)

SIGN HERE

X \s\ signature illegible

Signature of Person Appealing (or attorney or representative)

Have You?

- ☒ Read all of the General Instructions
- ☒ Provided all of the requested information
- ☒ Completed this form in English
- ☐ Provided a certified English translation for all non-English attachments
- ☒ Signed the form
- ☒ Served a copy of this form and all attachments on the opposing party
- ☒ Completed and signed the Certificate of Service
- ☒ Attached the required fee or fee waiver request

[Seal Omitted]

U.S. Department of Justice

Executive Office for Immigration Review

Board of Immigration Appeals
Office of the Clerk

P.O. Box 8530
5201 Leesburg Pike, Suite 1300
Falls Church, Virginia 22041

Tetzeli, Helena, Esq.
2650 S. W. 27Th Ave, 2Nd Floor,
Miami, FL 33133

USINS
18201 S.W. 12th St.
Miami, FL 33194

Date of this notice: 5/29/98

Name: RICHARDSON, RALPH

A#: 17-566-876

Date Received by Board: 01/23/1998

ALIEN APPEAL **SERVICE APPEAL**

X Enclosed is a copy of the decision of the Immigration Judge.

X Enclosed is a transcript of the testimony of record.

X Appealing party is granted until 06/29/1998 to submit a brief to the Appeals Processing Unit (APU). The brief must be **RECEIVED** at the APU on or before this date.

X Opposing party is granted until 07/28/1998 to submit a reply brief to the Appeals Processing Unit (APU). The brief must be **RECEIVED** at the APU on or before this date.

Please note:

1. **If alien is represented by counsel at the appeal level, a Notice of Appearance, Form EOIR-27, must be submitted to the APPEALS PROCESSING UNIT.**

2. **All papers filed with the Appeals Processing Unit shall be accompanied by Proof of Service upon the opposing party.**

3. **All briefs must be RECEIVED at the Appeals Processing Unit by the due date. Mailing the briefs by the due date is not sufficient. If a request for extension of briefing time is received after expiration of the initial briefing period, the Board will not act on it. Use of overnight courier is encouraged to ensure timely filing. Extensions of briefing time will only be granted for good cause. All requests must be in writing. Telephonic or facsimile requests will not be accepted.**

4. **The Board generally does not grant extensions for more than 21 days. The 21 days run from the date that initial briefing schedules expire, not from the date the request for extension is made or acted upon, and the request for extension must be RECEIVED on or before the expiration of the briefing time. The Board generally will not grant more than one extension of briefing time.**

U.S. Department of Justice

Executive Office for Immigration Review

Board of Immigration Appeals
Office of the Clerk

P.O. Box 8530
5201 Leesburg Pike, Suite 1300
Falls Church, Virginia 22041

Tetzeli, Helena, Esq.
2650 S. W. 27th Ave, 2nd Floor,
Miami, FL 33133

U.S. INS/KRO
18201 SW 12th St.
Miami, FL 33196

Date of this notice: 8/25/98

Name: RICHARDSON, RALPH

A#: 17-566-876

Date Received by Board: 01/23/1998

ALIEN APPEAL SERVICE APPEAL

X Enclosed is a copy of the decision of the Immigration Judge.

X Enclosed is a transcript of the testimony of record.

X Appealing party is granted until 09/24/1998 to submit a brief to the Appeals Processing Unit (APU). The brief must be **RECEIVED** at the APU on or before this date. [✓ 9/23]

X Opposing party is granted until 10/26/1998 to submit a reply brief to the Appeals Processing Unit (APU). The brief must be **RECEIVED** at the APU on or before this date. [✓ 0/26]

Please note:

1. **If alien is represented by counsel at the appeal level, a Notice of Appearance, Form EOIR-27, must be submitted to the APPEALS PROCESSING UNIT.**

2. **All papers filed with the Appeals Processing Unit shall be accompanied by Proof of Service upon the opposing party.**

3. **All briefs must be RECEIVED at the Appeals Processing Unit by the due date. Mailing the briefs by the due date is not sufficient. If a request for extension of briefing time is received after expiration of the initial briefing period, the Board will not act on it. Use of overnight courier is encouraged to ensure timely filing. Extensions of briefing time will only be granted for good cause. All requests must be in writing. Telephonic or facsimile requests will not be accepted.**

4. **The Board generally does not grant extensions for more than 21 days. The 21 days run from the date that initial briefing schedules expire, not from the date the request for extension is made or acted upon, and the request for extension must be RECEIVED on or before the expiration of the briefing time. The Board generally will not grant more than one extension of briefing time.**

BRIEFING SCHEDULE RESET
DUE TO INCORRECT
MAILING.

[Seal Omitted]

U.S. Department of Justice

Executive Office for Immigration Review

Board of Immigration Appeals
Office of the Clerk

P.O. Box 8530
5201 Leesburg Pike, Suite 1300
Falls Church, Virginia 22041

Tetzeli, Helena, Esq.
2650 S. W. 27th Ave, 2nd Floor,
Miami, FL 33133

U.S. INS/KRO
18201 SW 12th St.
Miami, FL 33196

Date of this notice: 9/24/98

Name: RICHARDSON, RALPH

A#: 17-566-876

Original Due Date (Alien): 9/24/98

Original Due Date (INS): 10/26/98

Date Received by Board: 1/23/98

ALIEN APPEAL SERVICE APPEAL

X Your request for an additional amount of time to submit a brief is **GRANTED**. Your brief must be **RECEIVED** at the **APPEAL PROCESSING UNIT** on or before 10/15/1998

X Opposing party is granted an additional amount of time to submit a brief. Your brief must be **RECEIVED** at the **APPEAL PROCESSING UNIT** on or before 11/26/1998

_ Your request for an additional amount of time to submit a brief is **DENIED**.

X The policy of the Board is that no additional extensions will be granted. You therefore should assume that no further extensions of the briefing will be granted. Briefs must be **RECEIVED** at the Appeals Processing Unit by the due date. Mailing the briefs by the due date is not sufficient. Use of overnight courier service is encouraged to ensure timely filing.

_ Other

\s\ signature illegible
Appeals Processing Clerk

******ALL PAPERS FILED WITH THE APPEALS PROCESSING UNIT SHALL BE**** ACCOMPANIED BY PROOF OF SERVICE UPON OPPOSING PARTY.**

THE BOARD GENERALLY DOES NOT GRANT EXTENSIONS FOR MORE THAN 21 DAYS. THE 21 DAYS RUN FROM THE DATE INITIAL BRIEFING SCHEDULES **EXPIRE**, NOT FROM THE DATE THE REQUEST FOR EXTENSION IS MADE. ALL REQUESTS MUST BE IN WRITING. TELEPHONIC OR FASCIMILE REQUESTS WILL NOT BE ACCEPTED.

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
RECORD OF SWORN STATEMENT

Office: Miami International Airport File No.: A17 566 876

Statement by: *RALPH RICHARDSON*

In the case of: *RALPH RICHARDSON*

At: Miami, Florida Date: OCTOBER 26, 1997

Before: *FELICIA SKINNER, SOI*
(Name and Title)

In the *ENGLISH* language. Interpreter *NOT* used.

I am an officer of the United States Immigration and Naturalization Service, authorized by law to administer oaths and take testimony in connection with the enforcement of the Immigration and Nationality laws of the United States. I desire to take your sworn statement regarding: your application for entry into the United States.

Q. Do you swear that all the statements you are about to make will be the truth, the whole truth, and nothing buy the truth, so help you, God?
A. YES

Q. What is your full, true and correct name?
A. RALPH RICHARDSON

Q. Of what country are you a citizen?
A. HAITI

Form I-263B (Rev. 4-1-68)

Q. When and where were you born?

A. PORT AU PRINCE, HAITI '1-14-66

Q. Do you have any family; mother, father, brother, sister, spouse, or child who are citizens or permanent residents of the United States?

A. MY WIFE IS A USC, 1 USC SON, 2 USC DAUGHTERS, 4 USC SISTERS, 2 USC BROTHER, MY MOTHER IS A PERMANENT RESIDENT

Q. Do you have any reason to believe that you are a citizen of the United States?

A. YES, BECAUSE I HAVE BEEN HERE SO LONG, AND I WENT TO THE POST TO GET A PASSPORT AND THEY TOLD ME I WAS NOT A USC, I NEEDED TO GET A HAITIAN PP

Q. Where do you currently reside? State your full address and telephone number.

A. 1127 HARBINS ROAD, NORCROSS, GA 30093
(770)381-8244

Q. What was your purpose in attempting to enter the United States today?

A. TO LIVE

Q. How much money do you have with you?

A. $30.00USD

Q. What is your occupation?

A. I AM A MANGER OF A CLEANING SERVICE

Q. Where are you currently employed?

A. EXCLUSIVE TOUCH CLEANING SERVICE, ATLANTA, GA

Q. Have you ever been arrested anywhere at any time?

A. YES

Q. What documents did you present today to the immigration inspector in the booth?

A. MY PASSPORT AND MY RESIDENT CARD

Q. What name is on the document(s)?

A. RALPH RICHARDSON

Q. Have you ever used any other names?

A. NO

Q. FROM WHERE AND ON WHAT AIRLINE DID YOU ARRIVE ON TODAY?
A. FROM PORT AU PRINCE , HAITI ON AA FLIGHT #268
Q. YOU STATED THAT YOU THOUGHT YOU WERE A USC , WERE YOU NATURALIZED OR WERE EITHER OF YOUR PARENTS BORN IN THE UNITED STATES?
A. NO, I NEVER APPLIED AND MY PARENTS WERE BORN IN HAITI
Q. HOW LONG WERE IN HAITI?
A. FOR 2 DAYS
Q. YOU STATED THAT YOU HAVE BEEN ARRESTED, WHAT WERE YOU ARRESTED FOR?
A. CONSPIRACY FOR TRAFFICKING COCAINE
Q. WHEN AND WHERE DID THIS HAPPEN?
A. IN 9/1990 IN HOLLYWOOD, FL
Q. WERE YOU CONVICTED?
A. YES, I WAS CONVICTED OF A FELONY AND SENTENCED TO 5 YRS BUT I ONLY SERVED ABOUT 3 YRS IN JAIL
Q. HAVE YOU EVER BEEN ARRESTED FOR ANYTHING ELSE?
A. YES, THE MISDEMEANORS
Q. HOW MANY MISDEANORS HAVE YOU BEEN CONVICTED OF?
A. 2 OR MAYBE 3
Q. WHAT WERE YOUR MISDEMEANOR CONVICTIONS FOR ?
A. CARRY A CONCEALED FIREARM IN 1984, AND I PLED GUILTY, I THINK I WAS GIVEN 1 YR PROBATION
Q. WHERE DID THIS HAPPEN AT?
A. IN NORTH MIAMI BEACH, FL
Q. WHAT WHERE YOUR OTHER MISDEMEANOR CHARGES?
A. I DON'T REMEMBER
Q. WERE YOU EVER ARRESTED FOR POSSESSION OF MARIJAUANA?
A. I DON'T REMEMBER, IT MIGHT BE POSSIBLE
Q. WERE YOU EVER ARRESTED FOR LOITERING AND PROWLING?
A. YES, I REMEMBER, I WAS ON MY WAY TO WORK BUT THEY SAID I WAS LOITERING
Q. WERE YOU ARRESTED FOR PROBATION VIOLATION IN MAY 1993?
A. YES, I TURNED MYSELF IN
Q. HOW DID YOU VIOLATE YOUR PROBATION?
A. FOR ELUDING POLICE OFFICERS
Q. WHY WERE YOU ELUDING POLICE OFFICERS?
A. I WAS WITH SOMEONE WHO HAD DRUGS AND I DID NOT WANT TO GET INTO TROUBLE
Q. WHAT WAS THE OUTCOME OF YOUR VIOLATION?
A. I WENT BACK TO PENSACOLA AND DID THE REMAINDER OF THE TIME IN JAIL WHICH WAS ONE YEAR
Q. WHEN WERE YOU RELEASED FROM JAIL?
A. \s\ ######## [January 11, 1994]
Q. HAVE YOU BEEN ARRESTED FOR ANYTHING ELSE?
A. NO, NOTHING
Q. YOUR RESIDENT CARD WAS ISSUED WHEN YOU WERE 2 YRS OLD, HAVE YOU EVER APPLIED FOR A NEW CARD?
A. NO, NEVER
Q. WHY HAVE'NT YOU APPLIED FOR A NEW CARD?
A. BECAUSE I NEVER HAD A REASON, I NEVER TRAVELED BEFORE AND I DID NOT THINK I NEEDED ONE

You do not appear to me to be clearly entitled to enter the United States as a returning permanent resident, because you were convicted of a felony, namely conspiracy to traffick cocaine, a controlled substance. Yu also have been charged and convicted of several misdemeanor offenses to include but not limited to, possession of marijauana, loitering and prowling, eluding police, and probation violation. You are being referred to an IJ, for a determination of your admissibility.

Q. Do you have any questions or is there anything else you would like to add to this statement?
A. I have been here for over 30 yrs. I did not know about the new law and I have establish myself with my new family if I knew about the law, I would have taken care of this and I regret this.

I have read (or have had read to me) the foregoing statement, consisting of 4 pages. I state that the answers made therein by me are true and correct to the best of knowledge and belief and that this statement is a full, true, and correct record of my interrogation on the date indicated by the above-named officer of the Immigration and Naturalization Service. I have initialed each page of this statement [and the correction(s) noted on page(s) [3]].

Signature \s\ X RALPH RICHARDSON

Subscribed and sworn to before me at Miami International Airport
Miami, FL on OCTOBER 26, 1997

\s\ FELICIA SKINNER Felicia Skinner, SOI
Officer, United States Immigration and Naturalization Service

Witnessed by: \s\ signature illegible SOI

RECORD OF SWORN STATEMENT